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ACTION EA-18

INFO OCT-01 SS-20 NSC-10 NSCE-00 INR-07 CIAE-00 NSAE-00

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R 290900Z MAY 71
FM AMEMBASSY SAIGON
TO SECSTATE WASHDC 5470
INFO AMEMBASSY BANGKOK
CINCPAC
AMCONSUL DANANG
USDEL FRANCE
AMEMBASSY PHNOM PENH
AMEMBASSY VIENTIANE

S E C R E T SAIGON 8462

LIMDIS

CINCPAC FOR POLAD

SUBJ: PRESIDENTIAL ELECTION LAW

REF: A. SAIGON 19912, DEC 18, 1970

B. SAIGON 20300, DEC 29, 1970

C. SAIGON 4062

DEPARTMENT OF STATE A/C. C/MR

REVIEWED BY James J. Izenberg DATE 1/26/82

PORTIONS DENIED AS INDICATED

1. SUMMARY: LOWER HOUSE IS NOW SCHEDULED TO TAKE SECOND-
ROUND ACTION ON THE PRESIDENTIAL ELECTION BILL JUNE 2, AND THE
EXECUTIVE IS ACTIVELY CAMPAIGNING TO RESTORE TO THE BILL A PROVISION
REQUIRING THAT CANDIDATES BE SPONSORED BY 40 MEMBERS OF THE
NATIONAL ASSEMBLY OR 100 PROVINCIAL AND MUNICIPAL COUNCILMEN.
THIS PROVISION IS PROBABLY AIMED AT VICE PRESIDENT KY, WHO
WOULD HAVE GREAT DIFFICULTY ROUNDING UP SUFFICIENT ENDORSEMENTS.
KY AND PERHAPS OTHER OPPOSITION ELEMENTS COULD BE EXPECTED TO
MOUNT A MAJOR CAMPAIGN OF CRITICISM IF ENDORSEMENT REQUIREMENT
IS ENACTED AND ENTIRE AFFAIR WOULD NO DOUBT GENERATE UNFAVORABLE
PUBLICITY BOTH IN SVN AND ABROAD. UNDER THIS PROVISION DUONG
VAN MINH WOULD PROBABLY THUS BE LEFT AS THE ONLY MAJOR CANDIDATE

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BESIDES THIEU, AND MINH MIGHT DECIDE NOT TO RUN. END SUMMARY

2. LOWER HOUSE HAS NOW SCHEDULED PRESIDENTIAL ELECTION LAW FOR SECOND-ROUND CONSIDERATION JUNE 2. PRIMARY ISSUE AGAIN IS PROVISION THAT PRESIDENTIAL CANDIDATES MUST BE SPONSORED BY 40 MEMBERS OF THE NATIONAL ASSEMBLY OR 100 PROVINCIAL AND MUNICIPAL COUNCILMEN. AT EXECUTIVE REQUEST THIS PROVISION WAS INCLUDED IN BILL ORIGINALLY PASSED BY LOWER HOUSE BUT WAS REJECTED BY THE UPPER HOUSE.

3. INTERIOR COMMITTEE

AND OTHER SOURCES TELL US COMMITTEE WILL RECOMMEND RESTORATION OF ENDORSEMENT PROVISION. IT APPEARS EXECUTIVE IS MAKING A STRONG EFFORT TO ROUND UP THE NECESSARY TWO-THIRDS MAJORITY TO ACCOMPLISH THIS. OPPOSITION DEPUTIES ALLEGE IN PUBLIC AND IN PRIVATE THAT THIS EFFORT INCLUDES BUYING VOTES. EXECUTIVE IS PROBABLY ALSO MAKING THIS VOTE A CONDITION FOR SUPPORTING INCUMBENT DEPUTIES IN THE LOWER HOUSE ELECTIONS.

4. OUR ESTIMATE IS THAT IT WILL BE DIFFICULT BUT NOT IMPOSSIBLE FOR EXECUTIVE TO SECURE THE NECESSARY VOTES. IF LOWER HOUSE RESTORES ENDORSEMENT PROVISION PRESIDENT THIEU WILL PROBABLY SIGN THE LAW AS IS WITHOUT PROPOSING AMENDMENTS. LAW COULD BE TESTED BEFORE SUPREME COURT, BUT JUSTICES HAVE INDICATED TO US THAT COURT WOULD PROBABLY NOT FIND ENDORSEMENT PROVISION UNCONSTITUTIONAL.

5. IT IS GENERALLY ACCEPTED THAT EXECUTIVE EFFORT TO RESTORE ENDORSEMENT PROVISION IS DIRECTED PRINCIPALLY AT VP KY, WHO PROBABLY COULD NOT OBTAIN ENOUGH ENDORSEMENTS TO QUALIFY AS CANDIDATE. IF ENDORSEMENT PROVISION IS RESTORED KY WILL UNDOUBTEDLY UNDERTAKE A FULL-FLEDGED CAMPAIGN TO DISCREDIT THE ELECTION BILL AS UNDEMOCRATIC AND DESIGNED TO FAVOR THE REELECTION OF THIEU.

6. DUONG VAN MINH, THE LEADING CHALLENGER FOR THE PRESIDENCY, HAS LIMITED PUBLIC COMMENT ON THE ELECTION BILL TO VAGUE REMARKS THAT THE ENDORSEMENT PROVISION MIGHT BE UNCONSTITUTIONAL.

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7. THERE ARE OF COURSE LEGITIMATE ARGUMENTS IN FAVOR OF ENDORSEMENT PROVISION. THERE WERE TOO MANY CANDIDATES IN 1967. MOST OBSERVERS AGREE MINH CLEARLY CAN OBTAIN ENDORSEMENT OF AT LEAST 40 MEMBERS OF ASSEMBLY. THUS MINH COULD RUN AND GIVE VOTERS A CLEAR-CUT CHOICE. ADMINISTRATION SUPPORTERS POINT TO ADVANTAGES OF TWO-PARTY SYSTEM FOR THE US AND THE BRITAIN, AND SAY THEY ARE ATTEMPTING TO OBTAIN SOME OF THESE BENEFITS BY LEGISLATION. FINALLY, THE LIMITATION INCREASES THE CHANCE THAT WINNER WILL HAVE A MAJORITY MANDATE FROM THE PEOPLE, IN CONTRAST WITH PRESIDENT THIEU'S PLURALITY OF 35 PERCENT IN 1967.

8. DESPITE ARGUMENTS IN SUPPORT OF ENDORSEMENT PROVISION, IF IT IS RESTORED BY THE LOWER HOUSE THERE WILL UNDOUBTEDLY BE ADVERSE PUBLICITY BOTH IN SVN AND ABROAD, CHARGING THIEU WITH TRYING TO SUFFLE THE DECK IN HIS FAVOR. WE RECALL THERE WAS ALREADY SOME CRITICISM IN THE US PRESS WHEN THE LOWER HOUSE FIRST PASSED THIS BILL DECEMBER 728.

9. THE ENDORSEMENT PROVISION ALSO WOULD HAVE EFFECT OF MAKING CREDIBLE ELECTION DEPENDENT ON MINH'S WILLINGNESS TO PERSEVERE IN RACE. THERE IS NO OTHER PROSPECTIVE CONTENDER PRESENTLY IN SIGHT WHO COULD GATHER THE REQUISITE NUMBER OF ENDORSEMENTS. MINH COULD DECIDE NOT TO RUN AGAINST THIEU, LEAVING THE PRESIDENT WITH NO SIGNIFICANT OPPOSITION. MINH'S ALREADY STATED VIEW ON THE "UNCONSTITUTIONALITY" OF THE ENDORSEMENT REQUIREMENT COULD PROVIDE A PRETEXT FOR WITHDRAWAL. BUNKER.

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